

**ENTERED**

July 03, 2018

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

KELLY NEWMAN,

Plaintiff,

v.

TEXAS PARKS AND WILDLIFE  
DEPARTMENT,

Defendant.

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Civil Action No. H-16-2626

ORDER

Pending before the court is Texas Parks and Wildlife Department's Motion to Exclude Plaintiff's Evidence of Damages (Document No. 57). Having considered the motion, submissions, argument in open court, and applicable law, the court determines that the motion should be granted in part and denied in part.

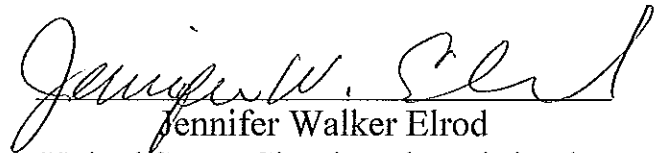
The court denies the motion as to Plaintiff's evidence of back pay, emotional damages, and attorneys' fees. The court grants the motion as to evidence of all other economic damages. The court finds that Plaintiff failed to disclose the excluded evidence in a timely manner as required under the Federal Rules of Civil Procedure and that Texas Parks and Wildlife Department has been prejudiced by the untimely disclosures. *See* Fed. R. Civ. P. 37(c)(1) ("If a party fails to provide information . . . as required by Rule 26(a) or (e), the party is not allowed to use that information . . . to supply evidence . . . at a trial, unless the failure was

substantially justified or is harmless); Fed. R. Civ. P. 26(a) (requiring a party to provide a computation of each category of damages claimed and to provide the supporting evidence on which the computation is based).

Based on the foregoing, the Court hereby

**ORDERS** that Texas Parks and Wildlife Department's Motion to Exclude Plaintiff's Evidence of Damages (Document No. 57) is **GRANTED IN PART** and **DENIED IN PART**.

SIGNED at Houston, Texas, on this 3 day of July, 2018.

A handwritten signature in cursive script, reading "Jennifer W. Elrod", written over a horizontal line.

Jennifer Walker Elrod  
United States Circuit Judge, sitting by  
designation in the United States District  
Court for the Southern District of Texas